

United States District Court
For the Northern District of California

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6 IN THE UNITED STATES DISTRICT COURT

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FOR THE NORTHERN DISTRICT OF CALIFORNIA

9

RAMA DIOP,

10

Plaintiff,

No. C 12-06332 JSW

11

v.

**ORDER DISMISSING THIRD
AMENDED COMPLAINT
WITHOUT LEAVE TO AMEND**

12

COUNTY OF MARIN, ET AL.

13

Defendants.

14

15 This matter comes before the Court upon consideration of Plaintiff's Third Amended
16 Complaint. Plaintiff is proceeding *pro se*, and the Court granted her motion to proceed *in forma*
17 *pauperis*. Under 28 U.S.C. Section 1915(e)(2)(B), the Court is required to dismiss an action
18 that is frivolous or fails to state a claim.

19

On August 16, 2013, Judge Phyllis J. Hamilton issued an Order dismissing Plaintiff's
First Amended Complaint for failure to state a claim, ordered that this matter be transferred to
the San Francisco division, and directed Plaintiff to file an amended complaint by September
18, 2013. The matter was then reassigned to this Court.

23

Federal Rule of Civil Procedure 8 ("Rule 8") requires plaintiffs to "plead a short and
plain statement of the elements of his or her claim." *Bautista v. Los Angeles County*, 216 F.3d
837, 840 (9th Cir. 2000). Rule 8 requires each allegation to be "simple, concise, and direct."
Fed. R. Civ. P. 8(d)(1). Where the allegations in a complaint are "argumentative, prolix, replete
with redundancy and largely irrelevant," the complaint is properly dismissed for failure to
comply with Rule 8(a). *McHenry v. Renne*, 84 F.3d 1172, 1177, 1178-79 (9th Cir. 1996); see

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1 also *Nevijel v. North Coast Life Ins. Co.*, 651 F.2d 671, 673-74 (9th Cir. 1981) (affirming
2 dismissal of complaint that was “ ‘verbose, confusing and almost entirely conclusory’ ”).
3 “Something labeled a complaint but ... prolix in evidentiary detail, yet without simplicity,
4 conciseness and clarity as to whom plaintiffs are suing for what wrongs, fails to perform the
5 essential functions of a complaint,” and “impose[s] unfair burdens on litigants and judges.”
6 *McHenry*, 84 F.3d at 1179-80.

7 A complaint that fails to comply with Rule 8 may be dismissed with prejudice pursuant
8 to Federal Rule of Civil Procedure 41(b). “The propriety of dismissal for failure to comply with
9 Rule 8 does not depend on whether the complaint is wholly without merit.” *McHenry* 84 F.3d
10 at 1179. Even if the factual elements of the cause of action are present, but are scattered
11 throughout the complaint and are not organized into a “short and plain statement of the claim,”
12 dismissal for failure to satisfy Rule 8 is proper. *Id.* at 1178.

13 The Court dismissed Plaintiff’s Second Amended Complaint because, notwithstanding
14 her efforts to set forth more than conclusory allegations, she failed to plead a short and plain
15 statement of her claims. Plaintiff’s Third Amended Complaint fares no better. Once again,
16 although Plaintiff includes allegations that various judges, commissioners and referees violated
17 her rights, issued unfavorable decisions, and conspired against her, it is impossible for the Court
18 to discern whether it has jurisdiction over many of these claims or whether Plaintiff’s claims
19 would be barred based on doctrines of immunity.

20 Accordingly, the Court DISMISSES, WITH PREJUDICE, the Third Amended
21 Complaint. *See McHenry*, 84 F.3d at 1177, 1178-79. The Court shall enter a separate
22 judgment, and the Clerk shall close this file.

23 **IT IS SO ORDERED.**

24
25 Dated: April 9, 2014


26 _____
27 JEFFREY S. WHITE
28 UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

RAMA DIOP,

Case Number: CV12-06332 JSW

Plaintiff,

CERTIFICATE OF SERVICE

v.

COUNTY OF MARINE et al,

Defendant.

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I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

13 That on April 9, 2014, I SERVED a true and correct copy(ies) of the attached, by placing
14 said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by
depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office
delivery receptacle located in the Clerk's office.

17 Rama Diop
527 Hillside Avenue
18 Mill Valley, CA 94941

19 || Dated: April 9, 2014

Jennifer Ottolini

Richard W. Wieking, Clerk
By: Jennifer Ottolini, Deputy Clerk